

MUR # 5502

The Honorable Ellen Weintraub, Chairman
Federal Election Commission
999 E Street, N.W.
Washington, D.C. 20463

RE: Formal Complaint Against Martinez for Senate, Respondent

Dear Chairman Weintraub:

Pursuant to 2 U.S.C. § 437g(a)(1) and 11 C.F.R. § 111.4, Frederick H. Armstrong hereby files this Complaint against Martinez for Senate, the principal authorized campaign committee for Mel Martinez, a candidate for the Republican nomination for the United States Senate from Florida ("Respondent").

The Complaint is filed against Respondent for violation of the Federal Election Campaign Act of 1971, as amended (2 U.S.C. § 431 *et seq*), specifically, receiving and making excessive contributions in violation of 2 U.S.C. § 441a(a)(1)(A) which prohibits contributions to a federal candidate in excess of Two Thousand Dollars (\$2,000.000) per election.

FACTS IN SUPPORT OF COMPLAINT

Respondent has repeatedly utilized the images of President George W. Bush on its website, in its mailings, and other campaign materials promoting his candidacy. Today, Respondent has announced it is launching a statewide media buy in the State of Florida to air a campaign television commercial ("Commercial") which contains references not only to Respondent, but also contains numerous photo images and video footage of the President. See Commercial and other materials referencing the President at www.martinezforsenate.com. The Commercial is produced by one of the media vendors providing media services to Bush-Cheney '04, Inc., the principal authorized campaign committee for President Bush's reelection campaign.

According to the Stevens-Schriefer website, Robb Schriefer "became one of George W. Bush's main image-makers" (during 2000) and the website further states that "The Stevens and Schriefer Group is part of the Bush / Cheney Media Team" in 2004. See www.stevens-schriefer.com

Certain of the footage contained in the Commercial portrays the President as *appearing* to 'endorse' Respondent in his candidacy for the United States Senate. Statement(s) by the President which seem to 'endorse' Respondent were not made with respect to Respondent's role as a candidate for the United States Senate, but rather were made in another context, contrary to the intended impression of the Commercial.

Respondent is willfully and deliberately jeopardizing the President's principal authorized campaign committee by producing and distributing a coordinated public communication with and through his media vendor who also serves as a media vendor to the President's reelection campaign.

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SPECIFIC VIOLATION OF FEDERAL LAW

The Commercial is a coordinated public communication by Respondent to the Bush-Cheney '04, Inc. and constitutes an in-kind contribution from Respondent to Bush-Cheney '04, Inc. in excess of \$2,000, in violation of 2 U.S.C. §441a(a)(1)(A) and 11 C.F.R. §109.21(b).

Stevens – Schrieffer is a 'common vendor' as that term is defined by the Federal Election Commission in 11 C.F.R. §109.21(D)(4). The footage of President Bush used by Respondent and his media vendor in the Commercial was obtained and utilized by Stevens-Schrieffer in violation of 11 C.F.R. §109.21(D)(4)(iii). As such, the common vendor has met the 'conduct standard' established by the Federal Election Commission. Respondent's Commercial references and depicts a clearly identified federal candidate *other* than Respondent to the general public within 120 days of the general election, is paid for by a third party (Respondent) and is coordinated with both candidates through the common vendor, Stevens-Schrieffer. The cost(s) of the production and broadcast of the Commercial exceed \$2,000, in excess of the permissible contribution limit(s) to a federal candidate from Respondent. The Commercial thus constitutes an illegal in-kind contribution from Respondent to Bush-Cheney '04, Inc.

Specific Violation of State Law

Respondent has violated the Florida law governing political advertisements, by implying and inferring the endorsement of his candidacy by President Bush but having not documented the existence of such endorsement. Florida law requires any representation by a candidate for office implying another person's endorsement of his/her candidacy must have obtained written approval of the use of the person's name or photograph prior to publication, to-wit:

"106.143. Political advertisements circulated prior to election; requirements.—

(3) It is unlawful for any candidate or person on behalf of a candidate to represent that any person or organization supports such candidate, unless the person or organization so represented has given specific approval in writing to the candidate to make such representation."
Fla. Stat. Ch. 106.143

Respondent has clearly violated not only the letter but the spirit of the Florida law governing political advertisements by not obtaining and providing to the public the written endorsement by the President prior to the airing of the Commercial. If such an endorsement does indeed exist, Respondent should immediately make such document available for public inspection.

CONCLUSION

Complainant submits that the violation(s) of the Act specified above was and is ongoing and willful.

I hereby attest under penalty of perjury that the above and foregoing facts are true and correct to the best of my knowledge and belief.

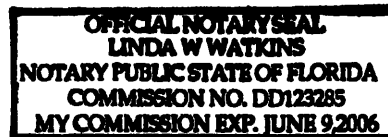
Frederick H. Armstrong
Complainant

Before me appeared this 27 day of July, 2004, Frederick H. Armstrong, who has sworn and attested to the truth of this Complaint.

S E A L

My Commission Expires:

Linda W. Watkins
Notary Public 7/27/04



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